

REMARKS

The pending office action addresses claims 1-4, 6-11 and 21, claims 12-20 having been withdrawn by the Examiner as being directed to a non-elected species. Currently claims 1-4, 6-11 and 21 stand rejected, and claim 5 is objected to as being dependent on a rejected base claim.

Applicants have amended claim 1 to recite a ligament graft fixation system for fixing ligament graft material within a bone tunnel comprising a graft location groove provided on the expandable fixation member extending proximately from the graft receiving eyelet. Support for this limitation can be found on page 5, lines 29-31 and in Figures 2-2A, all of which generally describe a graft location groove on the expandable fixation member which extends proximately from the graft receiving eyelet. Because support for this limitation is found in the original application itself, no new matter is added. Further, this amendment does not require additional search or consideration because arguments to this effect were presented in previous responses and because the amended element is similar to previously presented claim 5.

Applicants appreciate the Examiner's indication that claim 5 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Given that claim 1 is now in condition for allowance, claim 5 should be allowable as well.

Claims 12-20 were previously withdrawn by the Examiner as being directed to a non-elected species. Each of these claims now depends from an allowable base claim. Pursuant to 37 C.F.R. § 1.141(a) and M.P.E.P. § 806.04(d), these previously withdrawn dependent claims can be reconsidered and allowed because each now depends from an allowable generic claim.

Applicants have amended claim 21 to correct a typographical error as well as to recite a method for fixing a ligament graft in a bone tunnel comprising the steps of inserting the ligament graft fixation system distal end first and ligament graft into the bone tunnel until the proximal end of the expanding graft fixation member is even with or slightly inside the edge of the bone tunnel. Support for this limitation can be found on page 4, lines 4-12; page 10, lines 4-9 and in Figure 1, all of which recite a distal end first methodology. Because support for this limitation is found in the original application itself, no new matter is added. Further, this amendment does

not require additional search or consideration, as arguments to this effect were presented in previous responses.

Rejections under 35 U.S.C. § 102

In the Office Action, the Examiner rejected claims 1-4, 6-11 and 21 pursuant to 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,707,395 of Li.

As amended, claim 1 discloses a ligament graft fixation system for fixing ligament graft material within a bone tunnel comprising a graft location groove provided on the expandable fixation member *extending proximally from the graft receiving eyelet*.

As the Examiner states, Li teaches a ligament bone anchor having and expansion plug receiving opening in the proximal end and graft eyelet in the distal end. Nowhere does Li teach or suggest a ligament graft fixation system for fixing ligament graft material within a bone tunnel comprising a graft location groove provided on the expandable fixation member *extending proximally from the graft receiving eyelet*. In fact, given the Examiner's objection to Applicants' claim 5, the Examiner already recognizes that the grooves which extend proximally from the graft receiving eyelet differentiates Applicants' invention from Li. This issue has been addressed thoroughly by argument in previous responses.

As amended, claim 21 discloses a method for fixing a ligament graft in a bone tunnel comprising the steps of providing a ligament graft fixation system comprising an expandable fixation member, the fixation member having a proximal end, a distal end and an *expansion plug receiving opening defined in the proximal end, a graft receiving eyelet disposed proximate the distal end*, and inserting the ligament graft fixation system *distal end first* and ligament graft into the bone tunnel until the proximal end of the expanding graft fixation member is even with or slightly inside the edge of the bone tunnel. Nowhere does Li teach a ligament graft fixation system where the distal end, which includes a graft receiving eyelet disposed proximate the distal end, is inserted first and the proximal end, which includes an expansion plug, is left even with or slightly inside the edge of the bone tunnel. Rather, Li teaches a configuration that is opposite Applicants'. That is, Li teaches a configuration with a *proximal eyelet and a distal*

plug receiving opening, meaning that the anchor body of Li does not press the ligament graft against the wall of the bone tunnel in the way that Applicants' system does.

Accordingly, claims 1-4, 6-11 and are not anticipated by Li, and withdrawn claims 12-20, all of which depend, directly or ultimately, from claim 1 are not anticipated by Li.

Conclusion

In the Office Action mailed of December 23, 2003, the Office Action Summary states that copies of two Information Disclosure Statements initialed by the Examiner were attached to the Office Action, however Applicants have not received the initial forms. Applicants ask that copies of the two forms be included with the next Office Action.

In view of the above, each of the presently pending claims is in immediate condition for allowance. Accordingly, the Examiner is requested to pass this application to issue.

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Respectfully submitted,

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